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MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 2, 2022/2023

UYL 2612 – CYBERLAW

(All sections / Groups)

03 JULY 2023

Reading Time: 2.30 P.M. – 2.45 P.M.

(15 Minutes)

Answering Time: 2.45 P.M. – 5.45 P.M.

(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes **ONLY** in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.
2. This Question paper consists of 3 pages with 5 Questions only.
3. Answer **ONE** question in **PART A** and **ALL** questions in **PART B**. All questions carry equal marks and the distribution of the marks for each question is given.
4. Students are only allowed to bring in **CLEAN AND ORIGINAL COPY** of the following statutes into the exam venue:
 - i. Communications and Multimedia Act 1998
 - ii. Computer Crimes Act 1997
 - iii. Personal Data Protection Act 2010
 - iv. Electronic Commerce Act 2006
 - v. Digital Signatures Act 1997

“Clean” is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.
5. Please write all your answers in the Answer Booklet provided.

PART A: ANSWER ONE (1) QUESTION ONLY**QUESTION 1**

- a) Discuss whether the decision was rightly made in the case of *Gnanasegaran a/l Perarajasigam v PP* [1997] 3 MLJ 1.

(10 marks)

- b) "It is obvious that an increasing number of criminal cases, but also many civil and administrative matters before court will in one way or the other be related to information and communication technologies, and that the majority of criminal judges and prosecutors will be confronted if not with cybercrime with matters involving electronic evidence. It is thus not sufficient to train specialised judges and prosecutors only. Broad mainstreaming of cybercrime and electronic evidence knowledge is required: all or the largest possible number of judges and prosecutors, therefore, need to obtain at least basic training in matters related to cybercrime and electronic evidence. Such basic knowledge should be provided through initial training for future judges and prosecutors, and through in-service training for serving judges and prosecutors."

A passage from "Skills and knowledge required by Judges and Prosecutors," In *Cybercrime Training for Judges and Prosecutors: A Concept*, at Pg. 12.

Based on the above, explain the challenges to digital evidence in legal proceedings and identify the knowledge required by judges and prosecutors to overcome the challenges.

(15 marks)

(Total: 25 marks)

QUESTION 2

In *AB (by her litigation guardian CD) v Bragg Communications Inc and Another* [2013] 3 LRC 397, AB, a 15-year-old, discovered that a profile had been created on a social networking site using her picture, a modified version of her name and other details relating to her. The profile included sexually explicit references and unflattering comments on her appearance. The social networking platform removed the profile once it had been notified of its existence and the IP address used to create the account was narrowed down to one administered by a provider of Internet services in Atlantic Canada.

With reference to the above discuss the legal considerations that affect the rights of users in their use of information in electronic networked communities in Malaysia.

(Total: 25 marks)

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PART B: ANSWER ALL QUESTIONS**QUESTION 3**

On 10 September 2022, officers from the Social Welfare Department Malaysia called unannounced at Mr. X's home. The visit was a routine check upon his activities as Mr. X was subject to the notification requirements as a convicted paedophile. The officers asked Mr. X if he had any devices with Internet connectivity. He produced a non-Internet mobile phone and a Lenovo laptop. The Officers had noticed a local broadband hub and a rucksack, which had been hidden behind a chair. When he was asked what was in the rucksack, Mr. X's demeanour changed. He became anxious and did not make eye contact. He handed the bag to one of the officers and said: "There will be nudes on there." In the bag there was another, smaller laptop, a hard drive and USB memory sticks. Where necessary, Mr. X provided the passwords to allow the officers to access the items. They found images on the smaller laptop which gave them a cause for concern. The Police was notified, and Mr. X was arrested. Mr. X admitted that some of the images stored were "only obscene and indecent images" including adult nudes and he often shares them on various social media platforms.

Among other offences under the Sexual Offences Against the Children Act 2017, X is also charged for distributing offensive content on the Internet and for misuse of network services. Advise Mr. X on the possible application of the Communications and Multimedia Act 1998 and any other relevant provisions in the Penal Code.

(Total: 25 marks)

QUESTION 4

Mr. Y is 37 years old and was the Managing Director of a company called "du Lexbuild International Sdn Bhd" ("du Lexbuild"), a company that was commissioned to produce materials for the Armed Forces. In early 2007, the Ministry of Defence invited tenders from various contractors, including du Lexbuild, to tender for a contract to build the Armed Forces Storage Container System. Prior to the invitation to tender, Mr. Y and his colleague, Mr. X met the project manager in charge of the Armed Forces Storage Container System. That meeting took place in the lobby in the Ministry of Defence. The project manager left his laptop computer when he went to answer a telephone call. Mr. Y took the opportunity and looked at the laptop screen. He recognised a file name displayed on the screen and realised that it might have information useful to him. He inserted his thumb-drive into the laptop and copied the file into the thumb drive by the "drag-and-drop" method. Once the meeting was over, he studied the information that he has obtained and compiled the program codes of this exploit into a program which he executed on the Ministry of Defence network. The execution of the program caused the Ministry of Defence network to process and grant access request to Mr. Y, allowing him to secure access to further computer files contained the Ministry of Defence. He was even able to get personal details of some of the officers and their personal details including bank details.

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He mentioned this to Mr. X and shared some of the access codes to the Ministry of Defence network with him. Both planned a very detailed "attack" to secure financial benefits from some of the Armed Officers in the future.

Advise Mr. X and Mr. Y on the possible charges against them under the Computer Crimes Act 1997.

(Total: 25 marks)

QUESTION 5

a) What is the Malaysia position when it comes to the issue of consent on online transaction? Illustrate your answer with reference to relevant statute(s).

(10 marks)

b) Shizuka wanted to file a lawsuit against Giant Printing (GP) for "false advertisement" as she did not receive the product as per advertised by the latter. GP argued that the case should have been settled in arbitration in accordance with the website's terms of use. The terms in this situation were presented on the GP website via a "Terms of Use" hyperlink in the bottom left-hand corner of every GP page. The link also appeared in the corner of every page of the GP checkout process via an underlined hyperlink in green font. The full text of the terms found by these links explained that:

"By visiting any area in the Giant Printing.com Site, creating an account [or] making a purchase via the Giant Printing.com Site... a User is deemed to have accepted the Terms of Use."

GP argued that the notice, combined with her subsequent use of the website, was enough to bind her to the arbitration agreement. On the contrary, Shizuka argued that she neither clicked on the "Terms of Use" hyperlink nor read the terms, so she should not have been bound to the agreement. She further explained that the link could only be seen by a user who scrolls down at the end of the pages and that there was no need for her to do so because all the information that the user required to proceed with the purchase can be found halfway through. Moreover, it proceeded with a blank page until the end of the pages.

Assess the validity of the said contract with relevant cases and authorities.

(15 marks)

(Total: 25 marks)

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